82-484

No.

Office - Supreme Court, U.S.
FILED
SEP 20 1982
ALEXANDER L. STEVAS,
CLERK

IN THE

Supreme Court of the United States

October Term, 1982

WILLIAM A. ALBAUGH,

Petitioner,

v.

ESTELLE G. WOOD, *ET AL.*

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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THE CASILLAS PRESS, INC. – 1717 K Street N.W. – Washington, D.C. – 223-1230

QUESTION PRESENTED

Whether the Federal Enclave now known as the District of Columbia is a part of the State of Maryland?

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The petitioner, William A. Albaugh, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fourth Circuit.

OPINION BELOW

The opinion of the Court of Appeals was entered on April 22, 1982 (App. 12a). The opinion of the District Court for the District of Maryland was entered on January 29, 1982 (App. 8a).

JURISDICTION

The judgment of the Court of Appeals was entered on April 22, 1982 (App. 12a). The jurisdiction of this Court is invoked under Constitution, Art. IV, Sec. 2 and under 28 U.S.C. § 1254.

CONSTITUTIONAL PROVISIONS INVOLVED

Constitution, Art. I, Sec. 8, Cl. 17:

> (The Congress shall have power) . . . to exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority (exclusive legislation) over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;

Constitution, Art. IV, Sec. 2:

> The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states . . .

STATEMENT OF THE CASE

Petitioner, William A. Albaugh, originally filed this action on October 19, 1981 in the Circuit Court of Maryland for Prince George's County and it was later refiled on November 25, 1981 in the United States District Court for the District of Maryland on the grounds that that court had original jurisdiction. Petitioner together with his wholly owned DC corporation, Latent Energy Storage Co.,

Inc., brought suit against the defendants, Supervisors of Elections of Prince George's County, Maryland Government, DC Government, and the U.S. Government, for failing to recognize the Federal Enclave now known as the District of Columbia as a part of the State of Maryland for election and tax purposes. On the suggestion of the District Court, petitioner agreed to withdraw the company as a plaintiff party for the time being because it was not presently represented by a lawyer.

In 1981 petitioner was a resident citizen of the District of Columbia who stopped paying taxes on his estimated 1981 income as soon as the Maryland election officials refused to register him to vote in Maryland Congressional Elections. Early in 1982 petitioner moved his legal residence to 2600 Queens Chapel Rd., #808, Hyattsville, Maryland 20782, restored his Prince George's County voting registration, and in April became an official candidate for the Republican nomination for U.S. Senator from Maryland.

On January 29, 1982 the District Court entered an order (App. 7a) dismissing the case with prejudice on the grounds that the Judge thought the matter had been sufficiently adjudicated in *Albaugh v. Tawes,* 233 F. Supp. 576 (D. Md.) (1964) not to mention many other cases. On April 22, 1982 the Court of Appeals affirmed this judgment (App. 12a).

On September 7, 1982 the United States Court of Appeals for the District of Columbia extended the stay in *Albaugh v. Chapman* (Director of the Bureau of Census), et al., No. 82-1045 pending the disposition of this case.

REASON FOR GRANTING THIS WRIT

THE DECISION OF THE FOURTH CIRCUIT FAILS TO COMPLY WITH THE CONSTITUTIONAL DIRECTIVE IN ARTICLE I, SECTION 8, CLAUSE 17 WHICH STATES THAT PLACES PURCHASED WITH THE CONSENT OF THE STATE LEGISLATURE SHALL BE IN THAT STATE.

The Supreme Court's ruling in *Evans v. Cornman*, 398 U.S. 419 (1970) upheld the Constitutional stipulation that land purchased in the State of Maryland with the consent of the Maryland Legislature shall be part of the State of Maryland and the Supreme Court held the resident citizens of the NIH federal enclave are Maryland citizens for purposes of voting.

In this case the Maryland Assembly not only gave its consent for the government to purchase land in Maryland but gave the U.S. Government a special condemnation authority in Maryland Act of 1790, ch. 44, passed December 22, 1790 (App. 1a) to guarantee the land could be purchased cheaply if not stolen. On March 30, 1791 the major land owners in the proposed Federal City signed a mutual deed of trust turning over all their lands (App. 3a) to the United States Government.

Of the roughly 6,000 acres purchased, more than half was taken for streets with no compensation to the original land owners. About 600 acres was earmarked for Federal buildings constituted a Federal enclave which had to remain within the boundary of the State of Maryland according to the provisions of Constitution, Art. I, Sec. 8, Cl. 17 which provided:

> "(The Congress shall have power) . . . to exercise like authority (exclusive legislation) over all places purchased by the consent of the

> Legislature of the State in which the same shall be, for . . . other needful buildings;"

Petitioner submits that a reasonable interpretation of this constitutional provision requires that this Federal Enclave and all others established by purchase must remain within the boundary of the state they were in at the time of purchase. Obviously, the author of the Constitution thought it was possible for a Federal Enclave to be under the power of Congress to exercise exclusive legislation at the same time that the enclave was a part of a state. Since that part of the District of Columbia taken by cession by the United States Government rather than by purchase must be governed by like Federal authority, it follows that all the District of Columbia must be a part of the State of Maryland.

CONCLUSION

WHEREFORE petitioner prays that the Court will either grant this writ or remand the case to the District Court with the instruction that the District of Columbia be treated exactly like any other Federal Enclave established in the State of Maryland.

Respectfully submitted,

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